

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-10, 15, 16, 22-29, 31-34 and 36-84 are pending in the application, with claims 1 and 50 being the independent claims. Claims 1-5, 9-10, 15, and 28-29 are sought to be amended to change claim dependency and to more clearly define the claimed subject matter. New claims 45-84 are sought to be added. No new matter is added by way of these amendments. It is respectfully requested that the amendments be entered and considered.

Support for new claim 45 can be found throughout the specification, *e.g.*, page 43, lines 15-19. Support for new claims 46-47 and 81-82 can be found throughout the specification, *e.g.*, page 37, lines 18-25. Support for new claim 48 and 83 can be found throughout the specification, *e.g.*, page 23, lines 13-16. Support for new claims 49 and 84 can be found throughout the specification, *e.g.*, page 24, lines 5-9. Support for new claims 50-82 can be found throughout the specification, *e.g.*, page 29, lines 14-17; and page 33, lines 3-15.

I. Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1, 2, 5, 6-8, 10, 15, 16, 22-29, 31-34, 36-41 and 44 were rejected under 35 U.S.C. § 102(b) as being anticipated by Sigma catalog 1994 (henceforth Sigma; Office Action, page 2) and/or by Fluka catalog 1995/1996 (henceforth Fluka; Office Action, page 4).

An anticipation rejection under 35 U.S.C. § 102 requires a showing that each limitation of a claim is found in a single reference, practice, or device. *See In re Donohue*, 766 F.2d 531, 226 USPQ 619, 621 (Fed. Cir. 1985).

The Examiner has cited Sigma for the disclosure related to BGJ_b and F-12 Coon's Modification medium. Both of the present independent claims (claims 1 and 50) recite that the dry powder culture medium has "said desired final pH upon reconstitution." In the "Formulas" section of Sigma (pages 217 and 221), both media formulas clearly show that upon reconstitution the pH of the BGJ_b and Ham's F-12 Coon's Modification dry powder media are pH 6.2 ± 0.3 and 5.7 ± 0.3 , respectively. Both of these media require the addition of sodium bicarbonate to obtain a final pH of 7.4 ± 0.3 and 7.5 ± 0.3 , respectively. Hence, Sigma does not anticipate the present claims because it does not teach an automatically pH-adjusting dry powder culture medium having the desired final pH upon reconstitution.

Current independent claim 1 recites "wherein the dry powder culture medium comprises sodium bicarbonate." Sigma states that both of the dry powder culture media noted by the Examiner are "[w]ithout sodium bicarbonate" (Sigma, pages 13, 15, 217 and 221). With regards to Fluka, it describes the composition of the Terrific Broth, which does not include sodium carbonate (Fluka, page 1394). Neither Sigma nor Fluka teaches a dry powder culture medium containing sodium bicarbonate. Therefore, neither Sigma nor Fluka anticipates claim 1 or dependent claims 2-10, 15, 16, 22-29, 31-34 and 36-49.

The subject matter encompassed by independent claim 50 comprises an agglomerated powder culture medium. As is evident from a review of the specification, dry powder medium components are exposed to a solvent to form agglomerated particles. Neither Sigma nor Fluka

teach or suggest agglomerated powder culture medium. Therefore, neither Sigma nor Fluka anticipates claim 50 or dependent claims 51-86.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. § 102(b).

II. *Claim Rejections Under 35 U.S.C. § 103*

Claims 1-10, 15, 16, 22-29, 31-34 and 36-44 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sigma in view of PCT publication WO 98/36051 (henceforth Fike) and as also being unpatentable over Fluka in view of Fike. (Office Action, pages 5 and 7, respectively.) Applicants respectfully traverse this rejection.

The subject matter of claim 1, as amended herein, is directed to “wherein the dry powder culture medium comprise sodium bicarbonate.” As discussed above, neither Fluka or Sigma describe or suggest a dry powder culture medium comprising sodium bicarbonate. Fike does not disclose the use of pH-opposing forms of buffer salts in dry powder media.¹ Fike does indicate that acids or bases such as HCl or NaOH, respectively, can be added to a dry powder culture medium, so upon reconstitution the medium is at the desired final pH. However, Fike does not suggest substituting the acids or bases with any other compounds. As a result, none of the three references alone or in combination suggest a method of producing a dry powder media comprising both pH-opposing forms of buffer salts and sodium bicarbonate, wherein upon reconstitution the medium has the desired pH. Therefore, one skilled in the art considering the

¹ The Examiner stated “Fike does not specifically teach using pH-opposing forms of buffer salts to maintain the pH of the medium at a desired level” (Office Action, July 26, 2004, page 6).

these documents would not have arrived at the subject matter of claim 1 or dependent claims 2-10, 15, 16, 22-29, 31-34 or 36-39.

The subject matter of claim 50 relates to, *inter alia*, methods for producing an automatically pH-adjusting mammalian agglomerated powder culture medium comprising pH-opposing forms of buffer salts. Fike does not disclose the use of pH-opposing forms of buffer salts.¹ Sigma and Fluka offer no more than a list of ingredients for certain dry powder media containing pH-opposing forms of buffer salts. Neither Sigma nor Fluke provide any discussion related to pH-opposing forms of buffer salts. Consequently, Sigma and Fluka provide no suggestion to include pH-opposing forms of buffer salts in mammalian agglomerated powder culture media. Therefore, one skilled in the art considering these documents would not have arrived at the subject matter of claim 50 or dependent claims 51-84.

Fluka and Sigma suffer from additional deficiencies. First, the Terrific Broth in Fluka has no relevance to mammalian dry powder culture media. Second, Sigma is further deficient in that it does not provide dry powder culture media of the desired pH upon reconstitution. As discussed above, both of the media in Sigma referred to by the Examiner (Office Action, pages 2-3) are not at the final desired pH upon reconstitution and requires the separate addition of sodium bicarbonate to achieve the desired final pH for eukaryotic or mammalian cell culture.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. § 103(a).

Conclusion

It is not believed that extensions of time are required beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are

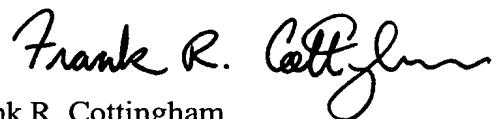
necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to the Deposit Account No. 19-0036.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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